

IC 4-20.5-7**Chapter 7. Disposition of Property****IC 4-20.5-7-1****Application of chapter**

Sec. 1. (a) This chapter applies to the disposition of state property, with or without consideration.

(b) This chapter does not authorize the transfer of property held in trust by the state unless the transfer is consistent with the terms of the trust.

(c) Except as provided in IC 8-23-7-15, this chapter does not apply to the sale of state property, including structures to be removed from state property, under the control of the department of transportation.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-2**Transferring agency head; duties**

Sec. 2. The agency head of a transferring agency must do the following:

- (1) Find that the property is surplus to the needs of the agency.
- (2) Notify the department that the agency wants to transfer the property.
- (3) Provide the details of the proposed transfer as required by the department.
- (4) Request, in writing, approval of the governor to transfer the property.

Subdivisions (1) and (4) do not apply to a lease of state property.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-3**Verifications by land offices**

Sec. 3. The land office must verify the following:

- (1) That the state holds title to the property.
- (2) That the description of the property is accurate and appropriate.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-4**Survey**

Sec. 4. (a) The commissioner may order a survey of the property if the land office finds a discrepancy between:

- (1) the description of the property in the instrument by which the state acquired title to the property; and
- (2) information contained in the land office.

(b) The survey plat and field notes of a survey conducted under this section shall be filed in the land office.

(c) The transferring agency shall pay the cost of the survey made under this section.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-5**Environmental audit**

Sec. 5. (a) The commissioner shall order that an environmental audit be conducted if either of the following applies:

- (1) There is reason to believe the property is contaminated.
- (2) An environmental audit is required by law.

(b) An environmental audit must be conducted by a qualified person.

(c) The transferring agency shall pay the cost of an environmental audit performed under this section.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-6**Notice of proposed transfer**

Sec. 6. The department shall notify the following of the proposed transfer:

- (1) Other state agencies.
- (2) State educational institutions.
- (3) The division of historic preservation and archeology of the department of natural resources as required by IC 14-21-1-14.

As added by P.L.7-1993, SEC.7. Amended by P.L.1-1995, SEC.35; P.L.267-1999, SEC.5.

IC 4-20.5-7-7**Transfer of property between agencies or educational institutions**

Sec. 7. (a) If the commissioner finds that another agency or a state educational institution can use the property, the property may be transferred to the other agency or the state educational institution.

(b) The agency head of the accepting agency or the state educational institution must do the following:

- (1) Find that the property is necessary or convenient to the accepting agency's or state educational institution's use or purpose.
- (2) Request, in writing, approval of the governor to transfer possession of the property from the transferring agency.

(c) With the approval of the budget agency, the accepting agency or state educational institution may transfer funds to the transferring agency in consideration of the transfer.

(d) The offer to the transferring agency must remain open for thirty (30) days after the offer was made. If an offer has not been rejected or accepted by the agency within thirty (30) days, the department may dispose of the property as otherwise permitted under this chapter.

As added by P.L.7-1993, SEC.7. Amended by P.L.39-1995, SEC.2; P.L.267-1999, SEC.6.

IC 4-20.5-7-7.1**Transfer of property between agencies or educational institutions; notice of availability; disposal of property**

Sec. 7.1. (a) At the time the department notifies state agencies and

state educational institutions of the availability of the property, the department:

- (1) shall notify:
 - (A) the municipality within which the property is located; and
 - (B) the county within which the property is located; and
- (2) may notify any other political subdivision within which the property is located;

of the availability of the property.

(b) If the state does not receive a response from a municipality, county, or other political subdivision within thirty (30) days, the state may dispose of the property as provided for under this chapter.

As added by P.L.39-1995, SEC.3. Amended by P.L.267-1999, SEC.7.

IC 4-20.5-7-7.3

Priority for transfers

Sec. 7.3. If more than one (1) state agency, state educational institution, or political subdivision expresses interest in acquiring surplus property, the department shall give priority for transfer of the property in the following order:

- (1) To a state agency.
- (2) To a state educational institution.
- (3) To a political subdivision.

As added by P.L.267-1999, SEC.8.

IC 4-20.5-7-8

Transfer to political subdivision or public utility or sale

Sec. 8. If the commissioner finds that another agency cannot use the property, the property may be:

- (1) transferred to a political subdivision under section 10 of this chapter;
- (2) transferred to a public utility under section 10.5 of this chapter; or
- (3) sold under sections 11 through 16 of this chapter.

As added by P.L.7-1993, SEC.7. Amended by P.L.33-1995, SEC.10.

IC 4-20.5-7-9

Appraisal

Sec. 9. (a) This section applies only to the following:

- (1) The transfer of property to a political subdivision under section 10 of this chapter.
- (2) The sale of property under sections 11 through 16 of this chapter.

(b) This section does not apply under the following circumstances:

- (1) The lease of property for a term of four (4) years or less.
- (2) If the commissioner determines that the value of the property is likely to be less than either of the following:
 - (A) Five thousand dollars (\$5,000).
 - (B) An amount established by the department in rules

adopted under IC 4-22-2.

(c) The property shall be appraised by an appraiser who has the qualifications determined by the commissioner.

(d) The transferring agency shall pay for the cost of the appraisal.
As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-10

Transfer to political subdivision by gift or sale; preference to political subdivisions

Sec. 10. (a) Section 15 of this chapter does not apply to the transfer of property to a political subdivision under this section.

(b) State property may be transferred to a political subdivision.

(c) The property may be transferred to the political subdivision as a gift or for the price as the state and the political subdivision determine.

(d) The state shall give preference to political subdivision requests for the property.

As added by P.L.7-1993, SEC.7. Amended by P.L.39-1995, SEC.4.

IC 4-20.5-7-10.3

Appraisal of property transferred to public utility

Sec. 10.3. (a) This section applies only to the transfer of property to a public utility under section 10.5 of this chapter.

(b) If property transferred under this section requires an appraisal, the commissioner may do one (1) of the following:

(1) Require the public utility to pay for the appraisal.

(2) Accept the public utility's appraisal.

(c) An appraisal under this section must be performed by an appraiser who has the qualifications required by the commissioner.

(d) The public utility shall pay for the cost of the appraisal and for any other costs involved in the transfer.

As added by P.L.33-1995, SEC.11.

IC 4-20.5-7-10.5

Transfer to public utility; consideration

Sec. 10.5. (a) The commissioner may, at the request of an agency head, transfer state property to a public utility (as defined in IC 8-1-2-1(a)) for the purpose of a right-of-way.

(b) Consideration for the transfer of property under subsection (a) is as follows:

(1) If the transfer is approved by the governor under section 15 of this chapter and the state will benefit from the transfer, the public utility shall pay only the costs, as determined by the commissioner, involved in the transfer of the property.

(2) For property not described in subdivision (1), the public utility shall pay the appraised value of the property determined under section 10.3 of this chapter in addition to the costs involved in the transfer of the property.

As added by P.L.33-1995, SEC.12.

IC 4-20.5-7-10.7

Transfer of property to person for property of like value

Sec. 10.7. (a) This section does not apply if the value of the state property is more than ten thousand dollars (\$10,000).

(b) The department may transfer state property to a person in exchange for property of like value transferred by the person to the state:

- (1) to settle a dispute relating to either or both of the properties; and
- (2) without offering to transfer the state property:
 - (A) to state agencies, state educational institutions, or a political subdivision under this chapter; or
 - (B) after a sale of the property under this chapter.

(c) The department must establish that properties exchanged under this section are of like value through appraisals or other means approved by the commissioner.

As added by P.L.267-1999, SEC.9.

IC 4-20.5-7-11

Sale through competitive bids or auction

Sec. 11. The department may sell the property through either of the following:

- (1) Competitive bids.
- (2) By auction.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-12

Notice of sale

Sec. 12. (a) The department must give notice of a sale as required by this section.

(b) Notice of a sale must satisfy the following:

- (1) The notice must state the time, place, and terms of the sale.
- (2) The notice must be published as follows:
 - (A) In accordance with IC 5-3.
 - (B) In every county in which the property is located.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-13

Bid procedure

Sec. 13. (a) Bids shall be opened publicly in the presence of at least one (1) witness at the time and place designated in the notice of the sale.

(b) Bids shall be:

- (1) unconditionally accepted without alteration or correction, except as provided in subsections (e) through (g); and
- (2) evaluated based on the requirements set forth in the notice of sale.

(c) Subject to section 15 of this chapter, the property shall be sold with reasonable promptness to the bidder who submits the highest bid and whose bid meets the requirements and criteria set forth in the

notice of sale.

(d) The department shall permit correction or withdrawal of inadvertently erroneous bids before or after bids are opened.

(e) If a bidder inserts terms not specified in the notice of sale, the department may do any of the following:

(1) Find the bidder to be nonresponsive.

(2) Permit the bidder to withdraw the additional terms to meet the requirements and criteria set forth in the notice of sale.

(3) Subject to subsections (f)(1) and (h)(2), accept any of the proposed terms.

(f) The department may not:

(1) accept proposed additional terms; or

(2) permit a change in a bid after bids are opened;

prejudicial to the interest of the state or fair competition.

(g) The department may cancel a sale only as permitted in either of the following:

(1) As stated in the notice of the sale.

(2) Under rules adopted by the department under IC 4-22-2.

(h) The commissioner must make a written determination supporting any of the following:

(1) Permitting the correction or withdrawal of a bid.

(2) A decision of the department to accept proposed additional terms under subsection (e)(3).

(3) Canceling the sale.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-14

Auction procedure

Sec. 14. (a) As used in this section, "auctioneer" refers to an auctioneer licensed under IC 25-6.1.

(b) Instead of taking bids, the department may engage an auctioneer to advertise the sale and to conduct a public auction of the property.

(c) The advertising by an auctioneer under this section must include a detailed description of the property to be sold.

(d) In addition to advertising given to the sale by an auctioneer, notice of the sale must be given as required by section 12 of this chapter.

(e) The transferring agency shall pay the costs of an auction conducted under this section.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-15

Sale at less than appraised value; grant of easement

Sec. 15. (a) Except as provided in subsection (b) and section 10 of this chapter, the governor must approve a sale of the property for a price less than the appraised value of the property.

(b) The department may grant an easement in property without:

(1) money consideration; and

(2) the approval of the governor.

As added by P.L.7-1993, SEC.7. Amended by P.L.267-1999, SEC.10.

IC 4-20.5-7-16

Cash sale; proceeds depository

Sec. 16. (a) A sale of property must be made for cash.

(b) Subject to Article 8, Section 2 of the Constitution of the State of Indiana, the proceeds of a sale, after payment of expenses, shall be deposited in the state treasury and credited to the fund from which the property was purchased.

(c) If the fund from which the property was purchased cannot be determined, the proceeds shall be deposited in the fund designated by the budget agency.

(d) The proceeds of the sale are subject to allotment by the budget agency with the approval of the governor.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-16.5

Proceeds credited to separate account for purchase of other real property

Sec. 16.5. The proceeds from the sale of property subject to the management or control of the department of natural resources shall be credited to a separate account to be used for the purchase of other real property to be managed or controlled by the department of natural resources.

As added by P.L.49-1997, SEC.22.

IC 4-20.5-7-17

Instrument of transfer; signatures

Sec. 17. (a) If the property is transferred, an instrument shall be prepared as directed by the department.

(b) The instrument prepared under subsection (a) must be signed by the following:

(1) The agency head of the transferring agency or a designee of the agency head.

(2) If the transfer involves two (2) agencies, the agency head of the accepting agency or a designee of the agency head.

(3) The governor or a designee of the governor.

(4) The attorney general for form and compliance with this chapter.

(c) The signatures of the individuals listed in subsection (b)(1) through (b)(3) must be acknowledged.

(d) An individual required by this section to sign or approve the instrument may sign or approve the instrument after the agency for whom the individual is signing or approving has completed all actions of the agency required under this chapter.

(e) The authority of a designee signing the instrument under subsection (b) must be indicated in writing and filed with the department.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-18**Recordation and filing**

Sec. 18. (a) Except as provided in subsection (b), this section applies to any transfer under this chapter.

(b) This section does not apply if the instrument is a lease for a term of four (4) years or less.

(c) The instrument shall be recorded in each county in which the property is located.

(d) Except as provided in subsection (e), a copy of the instrument shall be filed in the land office.

(e) If the transfer involves two (2) agencies, the instrument shall also be filed in the land office.

As added by P.L.7-1993, SEC.7.

IC 4-20.5-7-19**Rules**

Sec. 19. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.7-1993, SEC.7.